

mark or service mark used by the members of a cooperative, an association or other collective group or organization and includes marks used to indicate membership in a union, an association or other organization.”

Pub. L. 100-667, §134(7), amended par. defining “mark” generally. Prior to amendment, par. read as follows: “The term ‘mark’ includes any trade-mark, service mark, collective mark, or certification mark entitled to registration under this chapter whether registered or not.”

Pub. L. 100-667, §134(8), substituted par. defining “use in commerce” for former par. which read as follows: “For the purposes of this chapter a mark shall be deemed to be used in commerce (a) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto and the goods are sold or transported in commerce and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in this and a foreign country and the person rendering the services is engaged in commerce in connection therewith.” and par. providing when a mark is deemed abandoned for former par. which read as follows: “A mark shall be deemed to be ‘abandoned’—

“(a) When its use has been discontinued with intent not to resume. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall be prima facie abandonment.

“(b) When any course of conduct of the registrant, including acts of omission as well as commission, causes the mark to lose its significance as an indication of origin. Purchaser motivation shall not be a test for determining abandonment under this subparagraph.”

1984—Pub. L. 98-620, §103(1), in definition of “trade-mark” substituted “trademark” for “trade-mark”, and substituted “identify and distinguish his goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown” for “identify his goods and distinguish them from those manufactured or sold by others”.

Pub. L. 98-620, §103(2), in definition of “service mark” substituted “The term ‘service mark’ means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown” for “The term ‘service mark’ means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others”.

Pub. L. 98-620, §103(3), in subpar. (b) of par. relating to when a mark shall be deemed to be “abandoned”, inserted “Purchaser motivation shall not be a test for determining abandonment under this subparagraph.”

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office” in two places and “Commissioner of Patents and Trademarks” for “Commissioner of Patents” in definition of “Commissioner”.

1962—Pub. L. 87-772 substituted, “predecessors,” for “and” in definition of “applicant” and “registrant”, “Titles, character names and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor” for “and includes without limitation the marks, names, symbols, titles, designations, slogans, character names, and distinctive features of radio or other advertising used in commerce”, in definition of “service mark”, inserted “or the services are rendered in more than one State or in this and a foreign country and the person rendering the services is engaged in commerce in connection therewith” in fifteenth paragraph relating to use in commerce, struck out “purchasers” after “deceive” in definition of “colorable imitation”, and substituted “commerce” for “commence” in last par. relating to the intent of the chapter.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective one year after the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 523 of Pub. L. 103-465, set out as a note under section 1052 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-542 effective with respect to violations that occur on or after Oct. 27, 1992, see section 4 of Pub. L. 102-542, set out as a note under section 1114 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-667 effective one year after Nov. 16, 1988, see section 136 of Pub. L. 100-667, set out as a note under section 1051 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of this title.

#### REPEAL AND EFFECT ON EXISTING RIGHTS

Repeal of inconsistent provisions, effect of this chapter on pending proceedings and existing registrations and rights under prior acts, see notes set out under section 1051 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of Commerce, with certain exceptions, to Secretary of Commerce, with power to delegate, see Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 sections 1526, 1595a.

### CHAPTER 23—DISSEMINATION OF TECHNICAL, SCIENTIFIC AND ENGINEERING INFORMATION

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| Sec.   |  |
| 1151.  | Purpose of chapter.  |
| 1152.  | Clearinghouse for technical information; removal of security classification. |
| 1153.  | Rules, regulations, and fees.  |
| 1153a. | Repealed.  |
| 1154.  | Reference of data to armed services and other Government agencies.           |
| 1155.  | General standards and limitations; preservation of security classification.  |
| 1156.  | Use of existing facilities.  |
|        | (a) Available assistance.  |
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| 1157.  | Relation to other provisions.  |

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3704b of this title.

#### § 1151. Purpose of chapter

The purpose of this chapter is to make the results of technological research and development more readily available to industry and business, and to the general public, by clarifying and defining the functions and responsibilities of the Department of Commerce as a central clearinghouse for technical information which is useful to American industry and business.

(Sept. 9, 1950, ch. 936, §1, 64 Stat. 823.)

### § 1152. Clearinghouse for technical information; removal of security classification

The Secretary of Commerce (hereinafter referred to as the "Secretary") is directed to establish and maintain within the Department of Commerce a clearinghouse for the collection and dissemination of scientific, technical, and engineering information, and to this end to take such steps as he may deem necessary and desirable—

(a) To search for, collect, classify, coordinate, integrate, record, and catalog such information from whatever sources, foreign and domestic, that may be available;

(b) To make such information available to industry and business, to State and local governments, to other agencies of the Federal Government, and to the general public, through the preparation of abstracts, digests, translations, bibliographies, indexes, and microfilm and other reproductions, for distribution either directly or by utilization of business, trade, technical, and scientific publications and services;

(c) To effect, within the limits of his authority as now or hereafter defined by law, and with the consent of competent authority, the removal of restrictions on the dissemination of scientific and technical data in cases where consideration of national security permit the release of such data for the benefit of industry and business.

(Sept. 9, 1950, ch. 936, § 2, 64 Stat. 823.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1525, 3704 of this title.

### § 1153. Rules, regulations, and fees

The Secretary is authorized to make, amend, and rescind such orders, rules, and regulations as he may deem necessary to carry out the provisions of this chapter, and to establish, from time to time, a schedule or schedules of reasonable fees or charges for services performed or for documents or other publications furnished under this chapter.

It is the policy of this chapter, to the fullest extent feasible and consistent with the objectives of this chapter, that each of the services and functions provided herein shall be self-sustaining or self-liquidating and that the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals; but nothing herein shall be construed to require the levying of fees or charges for services performed or publications furnished to any agency or instrumentality of the Federal Government, or for publications which are distributed pursuant to reciprocal arrangements for the exchange of information or which are otherwise issued primarily for the general benefit of the public.

(Sept. 9, 1950, ch. 936, § 3, 64 Stat. 823; Sept. 25, 1970, Pub. L. 91-412, § 3(e), 84 Stat. 864.)

#### AMENDMENTS

1970—Pub. L. 91-412 struck out provisos of first par. for deposit of moneys received for services and publications after Sept. 9, 1950, in a special account in the Treasury, to be available, subject to appropriation authorizations, for reimbursement of appropriations and

for refunds to organizations and individuals entitled thereto, and making appropriations reimbursed by the special account available for original purposes. See section 1526 of this title.

#### CROSS REFERENCES

Moneys received for publications, use of, see section 1526 of this title.

### § 1153a. Repealed. Pub. L. 91-412, § 3(f), Sept. 25, 1970, 84 Stat. 865

Section, act Oct. 22, 1951, ch. 533, title III, § 301, 65 Stat. 586, provided for reimbursement of appropriations. See section 1526 of this title.

### § 1154. Reference of data to armed services and other Government agencies

The Secretary is directed to refer to the armed services all scientific or technical information, coming to his attention, which he deems to have an immediate or potential practical military value or significance, and to refer to the heads of other Government agencies such scientific or technical information as relates to activities within the primary responsibility of such agencies.

(Sept. 9, 1950, ch. 936, § 4, 64 Stat. 824.)

### § 1155. General standards and limitations; preservation of security classification

Notwithstanding any other provision of this chapter, the Secretary shall respect and preserve the security classification of any scientific or technical information, data, patents, inventions, or discoveries in, or coming into, the possession or control of the Department of Commerce, the classified status of which the President or his designee or designees certify as being essential in the interest of national defense, and nothing in this chapter shall be construed as modifying or limiting any other statute relating to the classification of information for reasons of national defense or security.

(Sept. 9, 1950, ch. 936, § 5, 64 Stat. 824.)

### § 1156. Use of existing facilities

#### (a) Available assistance

The Secretary may utilize any personnel, facilities, bureaus, agencies, boards, administrations, offices, or other instrumentalities of the Department of Commerce which he may require to carry out the purposes of this chapter.

#### (b) Cooperation of other agencies

The Secretary is authorized to call upon other departments and independent establishments and agencies of the Government to provide, with their consent, such available services, facilities, or other cooperation as he shall deem necessary or helpful in carrying out the provisions of this chapter, and he is directed to utilize existing facilities to the full extent deemed feasible.

(Sept. 9, 1950, ch. 936, § 6, 64 Stat. 824.)

### § 1157. Relation to other provisions

Nothing in this chapter shall be construed to repeal or amend any other legislation pertaining to the Department of Commerce or its component offices or bureaus.

(Sept. 9, 1950, ch. 936, § 7, 64 Stat. 824.)

## CHAPTER 24—TRANSPORTATION OF GAMBLING DEVICES

- Sec.  
1171. Definitions.  
1172. Transportation of gambling devices as unlawful; exceptions; authority of Federal Trade Commission.  
    (a) General rule.  
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1173. Registration of manufacturers and dealers.  
    (a) Activities requiring registration; contents of registration statement.  
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    (c) Records; required information.  
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1174. Labeling and marking of shipping packages.  
1175. Specific jurisdictions within which manufacturing, repairing, selling, possessing, etc., prohibited; exceptions.  
    (a) General rule.  
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1176. Penalties.  
1177. Confiscation of gambling devices and means of transportation; laws governing.  
1178. Nonapplicability of chapter to certain machines and devices.

### § 1171. Definitions

As used in this chapter—

(a) The term “gambling device” means—

(1) any so-called “slot machine” or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) any other machine or mechanical device (including, but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

(b) The term “State” includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(c) The term “possession of the United States” means any possession of the United States which is not named in subsection (b) of this section.

(d) The term “interstate or foreign commerce” means commerce (1) between any State or possession of the United States and any place outside of such State or possession, or (2) between points in the same State or possession of the United States but through any place outside thereof.

(e) The term “intrastate commerce” means commerce wholly within one State or possession of the United States.

(f) The term “boundaries” has the same meaning given that term in section 1301 of title 43.

(Jan. 2, 1951, ch. 1194, § 1, 64 Stat. 1134; Oct. 18, 1962, Pub. L. 87-840, §§ 2, 3, 76 Stat. 1075; Mar. 9, 1992, Pub. L. 102-251, title II, § 202(c), 106 Stat. 62.)

### AMENDMENTS

1992—Subsec. (f). Pub. L. 102-251 added subsec. (f).

1962—Subsec. (a)(2), (3). Pub. L. 87-840, § 2, substituted provisions including machines and mechanical devices designed and manufactured primarily for gambling by the operation of which a person may become entitled to receive, as the result of chance, any money or property, for provisions which included machines or mechanical devices designed and manufactured to operate by inserting a coin, token, or similar object, in par. (2), and inserted “, but which is not attached to any such machine or mechanical device as a constituent part”, in par. (3).

Subsec. (b). Pub. L. 87-840, § 3, substituted “the District of Columbia” for “Alaska, Hawaii”.

Subsecs. (d) and (e). Pub. L. 87-840, § 3, added subsecs. (d) and (e).

### EFFECTIVE DATE OF 1962 AMENDMENT

Section 7 of Pub. L. 87-840 provided that: “The amendments made by this Act [enacting section 1178 of this title and amending this section and sections 1172 and 1173 of this title] shall take effect on the sixtieth day after the date of its enactment [Oct. 18, 1962].”

### SHORT TITLE OF 1962 AMENDMENT

Section 1 of Pub. L. 87-840 provided: “That this Act [enacting section 1178 of this title and amending this section and sections 1172 and 1173 of this title] may be cited as the ‘Gambling Devices Act of 1962’.”

### SHORT TITLE

Act Jan. 2, 1951, which enacted this chapter, is popularly known as the “Gambling Devices Transportation Act”.

### SEPARABILITY

Section 8 of act Jan. 2, 1951, provided that: “If any provision of this Act [this chapter] or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act [this chapter] which can be given effect without the invalid provision or application, and to this end the provisions of this Act [this chapter] are declared to be severable.”

### CROSS REFERENCES

Numbering of gambling devices, see section 1173 of this title.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1173 of this title.

### § 1172. Transportation of gambling devices as unlawful; exceptions; authority of Federal Trade Commission

#### (a) General rule

It shall be unlawful knowingly to transport any gambling device to any place in a State or